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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MITCHELL P. WATSON
4792 Tiara Drive, Condo #202
Huntington Beach, CA 92649

Respiratory Care Practitioner
License No. 9271

Respondent.

Case No. R-2068

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 28, 2007, Complainant Stephanie Nunez, in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs, filed Accusation No. R-2068 against Mitchell P. Watson (Respondent) before the Respiratory Care Board.

2. On or about August 16, 1985, the Respiratory Care Board (Board) issued Respiratory Care Practitioner License No. 9271 to Respondent. The Respiratory Care Practitioner License expired on November 30, 2005, and has not been renewed.

3. On or about March 28, 2007, Jennifer Porcalla, an employee of the Complainant Agency, served Respondent by Certified and First Class Mail with a true and

1 correct copy of the Accusation No. R-2068, Statement to Respondent, Notice of Defense,
2 Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 at his
3 address of record with the Board, which was and is 4792 Tiara Drive, Condo #202, Huntington
4 Beach, CA 92649. A copy of the Accusation, accompanying documents, and Declaration of
5 Service are attached hereto as Exhibit A, and are incorporated herein by reference as if fully set
6 forth herein.

7 4. On or about April 6, 2007, the aforementioned documents were returned
8 by the U.S. Postal Service marked "Forward Time Expired, Return to Sender". The post office
9 included a forwarding address for Respondent of 17 Wildflower Place, Pomona, CA 91766. A
10 copy of the postal returned documents are attached hereto as Exhibit B, and are incorporated
11 herein by reference.

12 5. On or about April 16, 2007, Jennifer Porcalla, an employee of the
13 Complainant Agency, reserved Respondent by Certified and First Class Mail a true and correct
14 copy of the Accusation No. R-2068, Statement to Respondent, Notice of Defense, Request for
15 Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to an address
16 provided by the post office of 17 Wildflower Place, Pomona, CA 91766. A copy of the
17 Accusation, accompanying documents, and Declaration of Service are attached hereto as Exhibit
18 C, and are incorporated herein by reference as if fully set forth herein.

19 6. Service of the Accusation was effective as a matter of law under the
20 provisions of Government Code section 11505, subdivision (c).

21 7. On or about April 23, 2007, the green return receipt card was received by
22 the Board from the U.S. Postal Service. The green return receipt card was signed on April 19,
23 2007, indicating receipt of the above-mentioned documents mailed to Respondent at the 17
24 Wildflower Place, Pomona, CA address provided by the post office. A copy of the postal signed
25 green return receipt card is attached hereto as Exhibit D and incorporated by reference as if fully
26 set forth herein.

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1 8. Business and Professions Code section 118 states, in pertinent part:
2 "(b) The suspension, expiration, or forfeiture by operation of law of a license
3 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the
4 board or by order of a court of law, or its surrender without the written consent of the board, shall
5 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the
6 board of its authority to institute or continue a disciplinary proceeding against the licensee upon
7 any ground provided by law or to enter an order suspending or revoking the license or otherwise
8 taking disciplinary action against the license on any such ground."

9 9. Government Code section 11506 states, in pertinent part:

10 “(a) Within 15 days after service of the accusation the respondent may
11 file with the agency a notice of defense in which the respondent may:

12 “(1) Request a hearing.

13 “...

14 "(c) The respondent shall be entitled to a hearing on the merits if the
15 respondent files a notice of defense, and the notice shall be deemed a specific
16 denial of all parts of the accusation not expressly admitted. Failure to file a notice
17 of defense shall constitute a waiver of respondent's right to a hearing, but the
18 agency in its discretion may nevertheless grant a hearing."

19 10. Respondent failed to file a Notice of Defense within 15 days after service
20 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
21 Accusation No. R-2068.

22 11. California Government Code section 11520 states, in pertinent part:

23 "(a) If the respondent either fails to file a notice of defense or to appear at the
24 hearing, the agency may take action based upon the respondent's express admissions or
25 upon other evidence and affidavits may be used as evidence without any notice to
26 respondent."

27 12. Pursuant to its authority under Government Code section 11520, the Board
28 hereby finds Respondent is in default. Accordingly, the Board will take action without further

hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A, B, C, and D, hereby finds and determines that all of the charges and allegations in Accusation No. R-2068, and each of them, separately and severally, are true and correct, and that Respondent has thereby subjected his Respiratory Care Practitioner License No. 9271 to discipline.

13. The Respiratory Care Board further finds that pursuant to Business and Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the Accusation total \$285.00, based on the Certification of Costs contained in Exhibit E.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Mitchell P. Watson has subjected his Respiratory Care Practitioner License No. 9271 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Respiratory Care Board is authorized to revoke Respondent's Respiratory Care Practitioner License based upon the following violations alleged in the Accusation:

Business and Professions Code sections 3750(d) and 3752
[conviction of a crime].

5. Respondent is hereby ordered to pay the above costs of investigation and enforcement of this action.

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ORDER

IT IS SO ORDERED that Respiratory Care Practitioner License No. 9271, heretofore issued to Respondent Mitchell P. Watson, is revoked.

Respondent is ordered to reimburse the Respiratory Care Board the amount of \$285.00 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board for its costs. Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 5, 2007.

It is so ORDERED June 5, 2007.

Original signed by:
LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA